



January 21, 1982
NUMBER 1402.1

ASD(MRA&L)

Department of Defense Directive

SUBJECT : Employment of Retired Members of the Armed Forces

- References:
- (a) DoD Directive 1402.1, "Employment of Retired Members of the Uniformed Services , " August 16, 1969 (hereby canceled)
 - (b) Title 5, United States Code, Sections 3326, 5303, and 5532
 - (c) Federal Personnel Manual (FPM) Bulletin No. 300-49, "Issuance of Interim Regulations on Decentralization of Personnel Authorities," March 21, 1979
 - (d) Public Law 95-454, Civil Service Reform Act, 1978
 - (e) DoD 1340. 12-M, "Military Retired Pay Manual, " September 5, 1979, authorized by DoD Instruction 1340.12, "Guidance for Military Retired Pay, Deductions, and Survivor Annuity and Entitlements , " January 23, 1978
 - (f) Office of Personnel Management Handbook X-1 18, "Qualifications Standards, " January 1975
 - (g) DoD 5000. 12-M, "DoD Manual for Standard Data Elements, " December 1980, authorized by DoD Instruction 5000.12, "Data Elements and Data Codes Standardization Procedures , " April 27, 1965

A. REISSUANCE AND PURPOSE

This Directive reissues reference (a) , implements references (b) and (c), and provides policy and guidance on the employment of retired members of the Armed Forces.

B. APPLICABILITY

The provisions of this Directive apply to the Office "of the Secretary of Defense, the Military Departments (including their National Guard and reserve components), the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, the Defense Agencies, and the Uniformed Services University of the Health Sciences (herein referred to as "DoD Components"), including the nonappropriated fund instrumentalities of any such Component. The term "Armed Forces," as used herein, refers to the Army, Navy, Air Force, and Marine Corps.

C. DEFINITIONS

1. Retired Member of the Armed Forces. A member or former member of the Armed Forces who is entitled to retired, retirement, or retainer pay.

2. Position. A civilian office or position (including a temporary, part-time, or intermittent position as these terms are defined by the Office of Personnel Management (OPM)) to be filled, with or without compensation, under appointment or personal service contract from appropriated or nonappropriated funds, provided an employer-employee relationship exists.

3. Category A Positions. All Wage System positions paid from appropriated funds; all General Schedule (GS) positions, GS-7 and below, paid from appropriated funds; and GS positions, GS-8 and above, paid from appropriated funds for which payment of travel expenses to first duty station has been authorized.

4. Category B Positions. All positions paid from appropriated funds not covered in category A, above.

5. Attached Operating Agency. The field operating agency responsible for performing civilian personnel operational functions in support of a major DoD Component headquarters, such as the Department of the Army's Civilian Personnel Center.

D. POLICY AND PROCEDURES

1. Delegation of Authority. The authority to approve the appointment of a retired member of the Armed Forces to a position in the federal service, in or under the Department of Defense, during the 180 days after retirement is delegated to the heads of DoD Components. This includes appointments that, before the issuance of FPM Bulletin No. 300-49 (reference (c)), required the prior approval of the OPM. This authority may be redelegated as follows:

a. For category A positions, at least one level above the appointing authority.

b. For category B positions, at a level not below the major DoD Component headquarters (or attached operating agency).

c. For positions paid from nonappropriated funds, at a level not lower than the appointing authority.

2. General Policies

a. The basic objective in filling positions in the Department of Defense is to assure the appointment of fully qualified employees, generally the "best qualified" under consideration consistent with the provisions of 5 U.S.C. 3326 (reference (b)).

b. Retired members of the Armed Forces have a right to seek and to be considered for federal civilian employment. Such consideration must be extended equitably and in compliance with the merit system principle of open competition to avoid both the practice and appearance of preferential treatment. This is essential, not only in the interests of the public and of career employees, but to protect retired members from unwarranted allegations that they obtained their positions through influence based upon prior military service.

c. The following principles shall be observed before employing retired members of the Armed Forces.

(1) Full consideration shall be given, in accordance with in-service placement and promotion procedures (including procedures negotiated under the Federal Service Labor Management Relations Statute (Title VII of the Civil Service Reform Act of 1978 (reference (d))), to eligible and qualified DoD civilian employees.

(2) When appointment is in the competitive civil service and selection is from an established civil service register, retired members of the Armed Forces shall be accorded treatment consistent with regulations issued by the OPM.

(3) When the selection for appointment, whether in or outside the competitive civil service, is other than from an established civil service register, recruitment for the position shall be conducted in a way that assures reasonable efforts are made to obtain applicants from all possible sources to avoid any suspicion of attempts to unduly limit competition.

(a) This requires that the vacancy be well publicized; that recruitment be conducted over a sufficient period of time to give all interested candidates an opportunity to apply; and that qualification requirements for the position be written in a manner that does not give an advantage to a particular person.

(b) When selecting a retired member, it must be established that the member is better qualified than any in-service candidate. This requirement does not necessitate special recruitment efforts or delays in selections for shortage category positions for which OPM has authorized advanced in-hiring rates.

(4) Positions may not be held open pending the retirement of a member of the Armed Forces in order to provide that person with a preferential opportunity to apply for or be appointed to the position. Active recruitment shall be initiated when the position becomes vacant, unless suspension of recruitment can be fully justified for management reasons unrelated to the impending retirement of a member of the Armed Forces.

(5) If the position was last occupied by the proposed appointee or another military incumbent, change to civilian incumbency must meet a bona fide management need and not be to afford civilian employment to the proposed appointee.

3. Appointments 180 Days After Retirement

a. Appointments or transfers of retired members of the Armed Forces to positions in any DoD Component during the 180 days immediately following retirement may be made only when:

(1) The appointment is to a position for which the minimum rate of basic compensation has been increased by the OPM under the authority of 5 U.S.C. 5303 (reference (b)); or

(2) The appointment is to a position for which (a) equally well-qualified personnel are not available among the employees being considered under applicable in-service placement and promotion procedures; (b) employee candidates are not available among those required to be considered in priority placement programs, or among those on applicable DoD Component Reemployment Priority Lists, or under the OPM Displaced Employee Program; and (c) intensive external recruitment efforts have failed to produce any better qualified candidates .

b. A proposed appointment of a retired member of the Armed Forces under subparagraph D.3.a. (2), above, requires the prior approval of the official to whom authority has been delegated under subsection D.1. , above. Each appointment must comply with the spirit and intent of governing legislation and this Directive. Each appointment of a retired member during the 180-day period must be fully documented to reflect this compliance. As a minimum, this documentation shall include the information outlined at enclosure 1. Documentation shall be retained in the active files for 2 years from the date of appointment action.

4. Documentation and Notification Requirements

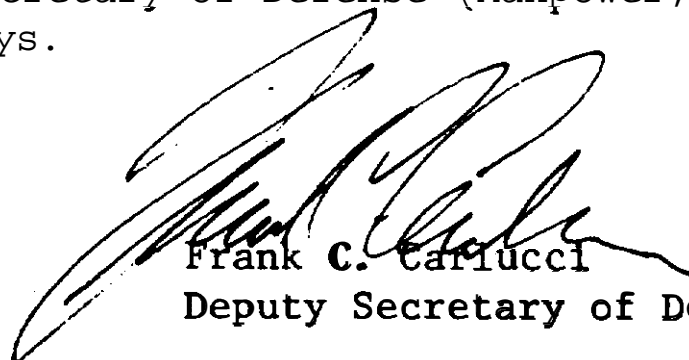
Under the Dual Compensation Act (5 U.S.C. 5532, reference (b)), retired or retainer pay of those retired from the Armed Forces may be subject to reduction. Defense procedures for administering the Act are contained in DoD 1340.12-M (reference (c)j). When a civilian office or position is filled by a retired member, the personnel action shall be reported by the appointing office on Standard Form (SF) 50, "Notification of Personnel Action," or equivalent form, to the Military Department finance center responsible for administering the member's retired or retainer pay. Implementing regulations applicable to nonappropriated fund instrumentalities shall be uniform to the maximum extent possible.

E. RESPONSIBILITIES

Heads of DoD Components shall ensure that the policy and guidance in this Directive are followed.

F. EFFECTIVE DATE AND IMPLEMENTATION

This Directive is effective immediately. Forward two copies of implementing documents to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) within 120 days.


Frank C. Carlucci
Deputy Secretary of Defense

Enclosure - 1

Information to Accompany Requests for
Approval of Proposed Appointments
of Retired Members of the Armed Forces

INFORMATION TO ACCOMPANY REQUESTS FOR APPROVAL
OF PROPOSED APPOINTMENTS OF
RETIRED MEMBERS OF THE ARMED FORCES

1. Information About the Proposed Appointee
 - a. The effective * date (YYMMDD) of retirement from the Armed Forces.
 - b. Rank at time of retirement.
 - c. * Pay grade and Uniformed Service, at the time of retirement; whether regular or **nonregular**.
 - d. A current Personal Qualifications Statement (SF 171) completed by the proposed appointee.
2. Information About the Position Involved
 - a. * Date (YYMMDD) the position was established.
 - b. * Date (YYMMDD) it was last occupied.
 - c. Whether the position was converted from military to civilian status.
 - d. * Date (YYMMDD) of conversion (if converted).
 - e. Reason for conversion.
 - f. Whether the proposed appointee was the last military occupant.
 - g. A current position description.
 - h. Whether the position is continuing or temporary.
 - i. A copy of the qualification standards covering the position. (Alternatively, reference may be made to Handbook X-118 (reference (f)) when X-118 standards are applied without modification).
 - j. Whether efforts to fill the position have been continuous since it became vacant; if not, the reasons therefor.
3. Consideration of Career Employees. To assure that full consideration, in accordance with placement and promotion procedures of the DoD Component concerned, was given to eligible career employees, the following information shall be included:
 - a. A copy of any notices used to publicize the vacancy to interested career employees.
 - b. Documentation on how the proposed appointee is superior to all qualified employees given consideration.
 - c. A statement **as** to whether the appropriate placement and promotion procedures were followed; if these procedures were not followed, the reasons therefor.
4. Appointment From a Civil Service Register (Information Additional to 1., 2., and 3). When the proposed appointee has eligibility on an appropriate civil service register and has been reached for appointment, the following additional information shall be provided:
 - a. A copy of the certificate of eligibles on which the proposed appointee's name appears. The examination announcement under which the proposed appointee filed shall be identified if it is not included on the certificate itself.

- b. A copy of the request for the certificate, including selective factors and names of nominees if selective certification or name request was involved.
 - c. A statement as to how the proposed appointee is superior to any eligibles standing higher on the certificate.
5. Appointment From Other Than a Civil Service Register (Information Additional to 1., 2., and 3.). When it is proposed to appoint a retired member from other than a civil service register, the following additional information shall be provided:
- a. Under what authority (OPM regulation) the retired member will be appointed.
 - b. If temporary appointment pending establishment of register authority has been secured, a copy of the request for a certificate of eligibles, including selective factors and a copy of the authority.
 - c. If any positive recruiting efforts were made to seek out applicants for the position, the methods used (including specific dates and places), copies of any notices publicizing the vacancy, and any contacts with recruiting sources.

General Note For Personnel Processing This Information:

Items marked with an asterisk (*) have been registered in the DoD Data Element Program. Data elements and coding must be as indicated in the instructions. In cases in which specific coding instructions are not provided, reference must be made to DoD 5000.12-M (reference (g)). Noncompliance by a DoD Component with either the coding instructions contained herein or those registered in the DoD Data Element Program shall make such Component responsible for required concessions in data base communication. Cost of data conversions shall be borne by the head of the DoD Component concerned.